

Raphael Alexander: One last chance to do right by Abousfian Abdelrazik

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A federal judge has ruled that the government's refusal to provide Sudanese-Canadian Abousfian Abdelrazik with proper documentation to return home is a violation of his constitutional rights, and has given the government 30 days to bring him back. This is the strongest rebuke of the government yet, [in dealing with the man who is stranded in the Canadian consulate in Sudan](#):

“The refusal of the emergency passport effectively leaves Mr. Abdelrazik as a prisoner in a foreign land, consigned to live the remainder of his life in the Canadian Embassy or leave and risk detention and torture, wrote Justice Russel Zinn.

The father of three has been confined to the embassy in Khartoum for more than a year, saying he fears he will be captured and tortured if he ventures outside.

Justice Minister Rob Nicholson, under pressure from his political opponents in the House of Commons to end the “national disgrace” of refusing to help Abdelrazik, would not commit to his immediate return.

Nicholson hinted that the government could appeal the decision, saying he will seek legal advice from his officials.

“After we’ve had a chance to review the advice of the Department of Justice, we’ll take action,” he said.

The mystery of why Mr. Abdelrazik is not being issued a passport remains one that only the federal government seems to understand. [I already wrote in detail before](#) on why he is not a threat to Canada, and why there is no compelling reason to block his return. In early May, government documents obtained under the Freedom of Information Act showed that Mr. Abdelrazik was originally imprisoned by Sudanese authorities at the request of unidentified Canadian intelligence officials.

Unfortunately for the general public, information on the affair is very hard to come by. A briefing to former Foreign Affairs Minister Maxime Bernier in early 2008 was entirely blacked out, including the page numbers. It is even more odd that the Conservative government seems to be obfuscating here, when the incident that led to the arrest and detainment came during a time of Liberal governance. If the current government has reasons why Mr. Abdelrazik can’t return, it isn’t saying. And a federal court doesn’t agree with what it is saying.

Ottawa maintains that Abdelrazik needs to get his name removed from a UN no-fly list to return to Canada, but even the United Nations has said that should not prevent the Canadian government returning one of its citizens; indeed the British government has already done so with one of its citizens – a convicted terrorist, unlike Mr. Abdelrazik who has never been charged with anything. The RCMP and CSIS have also now fully cleared him from any ties to terrorism. The Canadian government also reneged on a promise that he could return if he bought a plane ticket, refusing to

give him proper documentation when private citizens did just that. And finally, even Sudan offered to fly him home on their own aircraft, but again, the government refused.

Now the federal court has taken the bold step of asserting full power over the repatriation of Abdelrazik, and has demanded the government show proof within 15 days that it has made arrangements to bring him home within 30 days. Mr. Abdelrazik has been ordered to appear in court in Montreal on July 7.

The federal justice, Russel Zinn, also denounced the United Nations “no-fly list” [which has still not removed Mr. Abdelrazik's name], as being untenable because it puts the burden of innocence on the accused, a backwards logic of conventional law:

“One cannot prove that fairies and goblins do not exist any more than Mr. Abdelrazik or any other person can prove that they are not an al-Qaida associate,” wrote Zinn.

As for our government, if they fail to return Mr. Abdelrazik by the appointed date, they are asking to lose the confidence of many Canadians who expect them to uphold the rule of law. Unless the government can release information that would suggest it knows something different than the intelligence and police networks that have already exculpated him, it is obliged to repatriate him. Any delays will surely only increase the size of both the inevitable apology, and the obligatory out-of-court settlement.

Raphael Alexander – National Post